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1                   RECORD OF ORAL HEARING

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3                   UNITED STATES PATENT AND TRADEMARK OFFICE

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6                   BEFORE THE BOARD OF PATENT APPEALS  
7                   AND INTERFERENCES

8

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10                  *Ex parte* JANET L. SCHORR, BRENT GILBERT,  
11                  and MARK FREDRICK IVERSON

12

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14                  Appeal 2009-014734  
15                  Application 10/736,435  
16                  Technology Center 2600

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19                  Oral Hearing Held: September 21, 2010

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22                  Before ROBERT E. NAPPI, KENNETH W. HAIRSTON,  
23                  and MAHSHID D. SAADAT, *Administrative Patent Judges.*

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Appeal 2009-014734  
Application 10/736,435

1 The above-entitled matter came on for hearing on Tuesday, September 21,  
2 2010, commencing at 10:00 a.m., at the U.S. Patent and Trademark Office,  
3 600 Dulany Street, Alexandria, Virginia, before Dawn A. Brown, Notary  
4 Public.

5 MR. PIRIO: This is Maurice Pirio calling for the oral hearing.

6 JUDGE NAPPI: Okay. Just -- can you tell us the appeal number on your  
7 hearing?

8 MR. PIRIO: Yeah. It is 2009-014734.

9 JUDGE NAPPI: Okay. Can I just ask you to spell your name out for the  
10 record so the stenographer gets it spelled right for the transcript?

11 MR. PIRIO: Absolutely. It is Pirio, P-I-R-I-O, and the first name is Maurice,  
12 M-A-U-R-I-C-E.

13 JUDGE NAPPI: Thank you, Maurice. You have 20 minutes. You may start  
14 when you're ready.

15 MR. PIRIO: Okay. Great. And obviously -- and I know you'll have no  
16 reluctance to ask me any questions throughout the course of argument.  
17 What I'd like to do is start out by just providing a brief overview of the  
18 technology that we're -- that is the subject of the patent application and then  
19 briefly describe the Hoellerer reference, which is the only reference cited by  
20 the Examiner, and then to discuss a couple of points where I think the  
21 Examiner hasn't established that the claims were anticipated in view of the  
22 prior art.

23 So the overall technology is directed to a project -- to the presentation of  
24 project information to an end user and can probably be best understood with  
25 reference to Figures 9 and 10 of the patent application.

1 As you're no doubt aware, a project or various projects that may be planned for  
2 an organization, such as an automobile company, will have various milestones  
3 in it where certain dates have to be met. And as they start out the project,  
4 they'll have different levels of detail for the projects that need to be done in  
5 order to, say, design a new car.

6 And so what the technology -- the Applicants' technology does is it provides a  
7 timeline referring to Figure 9, the upper line, I believe it is line 660 -- 600 --  
8 sorry -- shows a timeline that spans June 1st of 2003 to December 31st of 2003  
9 and various milestones that need to be achieved in that project or shown as the  
10 diamonds on that upper timeline.

11 What the technology does then is it allows the user to select a portion of the --  
12 what is called a parent timeline, a portion of it, and then to display that portion  
13 of it in an expanded view so the user can see more details of the project.

14 So in this example, the user has selected to display approximately from  
15 July 1st to August 31 in an expanded view, and that expanded view is shown  
16 in timeline -- child timeline it looks like -- 810 down below. And as you can  
17 see within the child timeline, there is more detailed information as more  
18 milestones are shown that wouldn't fit very well if they had shown them on the  
19 parent timeline.

20 So that is one aspect of the technology is this concept of being able to display  
21 a child timeline that is an expanded view of a parent timeline.

22 Another aspect is shown in Figure 10 in which a user has added a milestone to  
23 either the parent timeline or a user could add a milestone to the child timeline.  
24 And in either case, the appropriate -- the other timeline is automatically  
25 updated to also show that milestone.

1 So in the case of Figure 10, a user may have added in meeting the 8/23/2003  
2 milestone, that says meeting with BG, to the parent timeline, and then that  
3 milestone would automatically be added to the child timeline. Similarly, the  
4 user could have entered in the milestone on the child timeline, and assuming it  
5 would fit on the parent timeline that is being shown, it would automatically  
6 update the parent timeline to show the milestone there.

7 Any questions so far on that?

8 JUDGE SAADAT: No questions so far.

9 JUDGE NAPPI: No questions so far.

10 MR. PIRIO: Okay. One other aspect that I wanted to mention of the  
11 technology, and that is the subject of a couple of the independent claims, is it  
12 is directed to the concept of a project that may have various subprojects  
13 associated with it. So, for example, going back to the automobile company, in  
14 the design of an automobile, there may always be a stage of the project that  
15 has -- that may be referred to as elicit customer feedback.

16 And so that subproject may have a well-defined set of milestones that would  
17 be added into any car design project. And so what an aspect of the technology  
18 does is it allows a parent timeline to be displayed such as the overall car design  
19 project and then a second timeline to be displayed such as the subproject to  
20 elicit customer feedback and then allows the user to automatically -- the user  
21 to specify to link that second timeline into the first timeline to form a  
22 parent-child relationship between the two so that the user who is setting out the  
23 project doesn't have to recreate all the steps and milestones of the subproject.  
24 That is, to elicit customer feedback every time a new car design is -- project is  
25 conducted.

1 So it is just a way to submit -- to make it visually easy to add a subproject into  
2 an overall project timeline. And that is the subject of the -- primary subject of  
3 independent Claims 35 and 44.

4 So the Examiner has rejected the claims based on the Hoellerer reference and  
5 in relying primarily on Figures 2 -- I believe it is 2A -- I'm sorry, Figure 2B, 3,  
6 and Figure 10. And I'll briefly describe my understanding of the Hoellerer  
7 reference in reference to Figure 2B.

8 So in the context, Hoellerer is trying to plan a trip, and for all practical  
9 purposes, I think we can consider the trip and the places to visit the -- would  
10 correspond to -- generally to events that would be occurring as part of that trip.

11 And in Figure 2 it shows a map in the center of the Los Angeles area. And  
12 down at the bottom you see items 242, and these represent a portion of the  
13 calendar for the user's trip. And actually, there are three lines marked 242, and  
14 those represent alternative activities that a user may want to plan for the trip.  
15 So the upper line may represent one set of activities, and this middle line  
16 represents a separate set of activities that the user may want to participate in,  
17 and the third line would represent a third.  
18 And so the user can when they're planning a trip have a first itinerary  
19 represented by the first line of 242, a second itinerary represented by the  
20 second line and a third. And then the user can ultimately pick which itinerary  
21 they really want to go on.  
22 And within each of the Lines 242, for example, the middle one, we can see  
23 where it looks like from Tuesday to -- through Thursday at 246 at the middle  
24 one, the user is planning a trip to some portion of LA and a line is shown from  
25 the map to 246 on the middle line showing that -- where the user plans to be

1 for that portion of the trip. And similarly, for the other shaded portions of line  
2 242.

3 So it is to provide a visual of the map of where the user -- showing the general  
4 area where the user wants to go and for each scheduled event where the -- how  
5 long the event will last for that alternative itinerary and the location of it.

6 So any questions on that?

7 JUDGE SAADAT: No.

8 JUDGE NAPPI: No questions.

9 MR. PIRIO: Okay. Great. So -- and Figure 3 of the Hoellerer shows,  
10 actually, a different view of the alternative trips -- alternative itineraries I  
11 should say for the user. And as we can see, the middle one is, as I mentioned  
12 earlier, at 246 represents a visit to some location in Los Angeles spanning  
13 Tuesday through Thursday. And it shows the 244A and 244B showing how a  
14 user can drag one end -- for example, the user would drag 244B if they wanted  
15 the stay for that alternative itinerary to be -- to encompass Friday, so they  
16 would drag the handle 244B to the right to include Friday.

17 And presumably, if the user wanted to make a change to the third alternative  
18 itinerary, the bottom line of 242, then the user would select one of those  
19 shaded areas and move it or move it to the left or right to extend their stay or  
20 shorten their stay for one of those locations represented by the shaded area.

21 The final thing the Examiner relies on is Figure 10. And in Figure 10, it is the  
22 middle figure on Sheet 19, and what Figure 10 is showing is a data structure  
23 that is stored in memory to represent an alternative itinerary. So in the  
24 example of Figure 3, the -- there would be an alternative -- one of these entries  
25 for each of the three lines 42.

1 And so each of these alternative itineraries would have for each of the events,  
2 each location where a user wants to visit, for example, would have the start  
3 time and end time for each of those events, and in this example it shows events  
4 for that alternative itinerary.

5 And similarly for the middle line and the third line of Figure 3, there would be  
6 a similar data structure in memory storing the information for that alternative  
7 trip.

8 So on one alternative trip, a user may want to as the first event, say, go to  
9 Disneyland for two days but on a second -- on another alternative trip, maybe  
10 they only want to stay at Disneyland one day, for example, or maybe their first  
11 event on the alternative trip instead of going to Disneyland might be go to the  
12 beach for a day and then go to Disneyland for two days. So there would be a  
13 completely separate entry in the data structure for that second alternative trip.

14 So that is my understanding of the Hoellerer reference. And quite frankly, I  
15 didn't totally understand the Examiner's position in rejecting the claims. It  
16 seemed to change somewhat from the Final Office Action to the Examiner's  
17 Answer.

18 In the Final Office Action and what my Appeal Brief addressed was that the  
19 Examiner seemed to be saying that one of Lines 242 corresponded to the  
20 claimed parent timeline, and the data structure in Figure 10 corresponded to  
21 the second timeline or child timeline that is displayed.

22 And as I tried to point out in the Appeal Brief is that Figure 10 refers to a data  
23 structure in memory and is not a separate timeline that is not in any way shown  
24 to a user. Rather, the data structure of Figure 10 is illustrated by, for example,

1 one of the Lines 242. So what is in one of the Lines 242 represents what is  
2 actually stored in memory as the data structure.

3 So I argued -- I didn't quite understand how this data structure and memory  
4 could in any way correspond to a second timeline that is somehow an  
5 expanded view of a first timeline that is displayed.

6 In the Answer, although the Examiner still pointed to Figure 10 as being the  
7 second timeline, the Examiner also pointed to a parenthetical of Figure 3 as --  
8 with reference to Figure 10. But the way I view Figure 3, Figure 3 is just a  
9 different view of exactly what is in Lines 242. So I don't see how that is in any  
10 way an expanded view of a portion of the information that is on 242.

11 And also I didn't -- I don't believe there is any suggestion of, as recited in, for  
12 example, Independent Claim 23 this concept of adding an event to one of the  
13 timelines. I think in Claim 23, I believe it is adding it to the first timeline and  
14 then automatically having it appear in the second timeline.

15 So I just have a couple of minutes left and I wanted to address one point and a  
16 couple of the independent claims, Independent Claims 35 and 44. In rejecting  
17 these claims, the Examiner simply pointed to Claim 23 as -- in saying that  
18 these claims are similar. But there are differences between the claims.

19 For example, Claim 21 -- I'm sorry, Claim 23 recites updating the first line and  
20 having the second line automatically updated. Whereas Claim 35 is directed to  
21 updating -- having the user update the child timeline or the second timeline  
22 and having the first timeline automatically updated.

23 So although they're -- in some sense, they're similar, they're certainly not  
24 identical. And the Examiner -- again, this is a 102 rejection. The Examiner

1 has not pointed to where in discussing claims 35 and 34 has even asserted  
2 where some of the elements are even taught by Hoellerer.  
3 Indeed, the -- and in the Examiner's Answer, he mentioned that we didn't even  
4 point out where -- what elements were missing or -- that were in Claims 35  
5 and 34 -- and 44 that were missing from Hoellerer. I think the Examiner  
6 maybe didn't read all the way to the end of the Appeal Brief because we  
7 address it -- we point to the specific limitation that is not included in the actual  
8 bullet points that discuss Claims 35 and 44 on Pages 13 and 14 of the Brief.  
9 JUDGE NAPPI: Counsel, please wrap it up. Your 20 minutes is up and we  
10 have another hearing scheduled right behind yours.

11 MR. PIRIO: Understand. And so I don't see where a prima facie case of  
12 anticipation has been generated for claims -- or has been made for claims 35  
13 and 44. And that is all I have.

14 JUDGE SAADAT: I have a quick question. On Page 7 of Examiner's  
15 Answer, the Examiner seems to state that a segment, 246, has an expanded  
16 view or looks like an expanded view according to the Notes 212. Notes 212  
17 definitely provide more details about events that take place during the segment  
18 246.

19 MR. PIRIO: Let me look at -- where is 212? What figure is that on?

20 JUDGE SAADAT: 212. Figure -- for example, it is in Paragraph 73, first  
21 mentioned, so probably Figure 5.

22 MR. PIRIO: Figure 5, let me have a look there.

23 JUDGE SAADAT: Actually, Figure 6A.

1 MR. PIRIO: 6A, okay. Yeah, I'm not sure what -- this seems to be showing  
2 details of a -- of different events. I'm not sure that it is arranged in a timeline  
3 or an -- would be considered an expanded view of 246.

4 JUDGE SAADAT: So the difference, you say, is that it is not in the form of a  
5 timeline?

6 MR. PIRIO: I'm not even -- these just seem to be -- yeah. I don't know how  
7 this is -- was showing any sort of timeline. But they look like -- and granted, I  
8 haven't focused on 6A, but it looks like it is just displaying icons representing  
9 different possible events.

10 JUDGE SAADAT: Notes 212 are discussed in relation with Intervals 246 in  
11 all the paragraphs that Examiner cited.

12 MR. PIRIO: You said 73, I believe.

13 JUDGE SAADAT: Starts at 73. It is mentioned at 76.

14 MR. PIRIO: Note 212 is shown on bulletin board window and that, I believe,  
15 is the -- it appears to be the window of -- referring to Figure 2B, it is the  
16 window on the right and maybe the bulletin board window.

17 And what it is showing is icons maybe corresponding to the different events  
18 that may be -- a user may be planning and where you could get more  
19 information -- you can click on an icon and get more information of, say, a  
20 visit to the Statue of Liberty or information on a Redskin game.

21 JUDGE SAADAT: Thank you. No more questions.

22 MR. PIRIO: Okay.

23 JUDGE NAPPI: Okay. Thank you very much.

24 MR. PIRIO: Thanks for your time.

25 Whereupon, the proceedings at 10:29 a.m. were concluded.